

## Fiscal Estimate - 2009 Session

☒ Original
 ☐ Updated
 ☐ Corrected
 ☐ Supplemental

<b>LRB Number</b> <b>09-3142/1</b>	<b>Introduction Number</b> <b>SB-263</b>	
<b>Description</b> Criteria for determining indigency for purposes of representation by the State Public Defender and requiring the exercise of rule-making authority		
<b>Fiscal Effect</b>  <b>State:</b> <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <input type="checkbox"/> No State Fiscal Effect  <input type="checkbox"/> Indeterminate                      <input type="checkbox"/> Increase Existing Appropriations                      <input type="checkbox"/> Decrease Existing Appropriations                      <input type="checkbox"/> Create New Appropriations                 </div> <div style="width: 33%;"> <input type="checkbox"/> Increase Existing Revenues  <input type="checkbox"/> Decrease Existing Revenues                 </div> <div style="width: 33%;"> <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget                      <input type="checkbox"/> Yes                      <input checked="" type="checkbox"/> No  <input type="checkbox"/> Decrease Costs                 </div> </div> <b>Local:</b> <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <input type="checkbox"/> No Local Government Costs  <input type="checkbox"/> Indeterminate                      1. <input type="checkbox"/> Increase Costs                      3. <input type="checkbox"/> Increase Revenue                      <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory                      <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory                      2. <input checked="" type="checkbox"/> Decrease Costs                      4. <input type="checkbox"/> Decrease Revenue                      <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory                      <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory                 </div> <div style="width: 33%;"> <b>5. Types of Local Government Units Affected</b>  <input type="checkbox"/> Towns                      <input type="checkbox"/> Village                      <input type="checkbox"/> Cities  <input checked="" type="checkbox"/> Counties                      <input type="checkbox"/> Others  <input type="checkbox"/> School Districts                      <input type="checkbox"/> WTCS Districts                 </div> </div>		
<b>Fund Sources Affected</b> <b>Affected Ch. 20 Appropriations</b> <input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS		
<b>Agency/Prepared By</b>  SPD/ Mike Tobin (608) 266-8259	<b>Authorized Signature</b>  Krista Ginger (608) 264-8572	<b>Date</b>  9/1/2009

## Fiscal Estimate Narratives

SPD 9/1/2009

LRB Number	09-3142/1	Introduction Number	SB-263	Estimate Type	Original
<b>Description</b> Criteria for determining indigency for purposes of representation by the State Public Defender and requiring the exercise of rule-making authority					

### Assumptions Used in Arriving at Fiscal Estimate

The State Public Defender (SPD) is statutorily authorized and required to appoint attorneys to represent indigent defendants in criminal proceedings. The SPD plays a major role in ensuring that the Wisconsin justice system complies with the right to counsel provided by both the state and federal constitutions. Any legislation that creates a new criminal offense or expands the definition of an existing criminal offense has the potential to increase SPD costs.

Although this bill neither creates new criminal offenses, nor changes penalties, it would increase the number of SPD cases by updating the SPD financial eligibility criteria. These criteria have remained the same, without adjustments for inflation, since 1987, with the consequence that many applicants of low income (below the federal poverty level) do not presently qualify for SPD representation.

Because the proposed effective date is June 19, 2011, the SPD would not incur increased costs during the 2009-11 biennium. As the proposed changes are implemented, the SPD estimates additional costs in FY 2012 of \$3,800,000. The estimated annual cost attributable to the changes proposed in this bill would be \$4,100,000, once fully implemented, beginning in FY 2013. These estimates are based upon average SPD costs and a study of applications for SPD services, which showed that the SPD would provide representation in an additional 12,800 cases annually if these changes take effect. In general, the number of criminal charges filed and statewide economic conditions are significant variables affecting the number of SPD cases.

Much, if not all, of the increased costs will be offset by reductions in county expenditures for the appointment of counsel. Reports from 69 of Wisconsin's 72 counties showed county expenditures in 2008 of approximately \$6,000,000 for this type of appointment. Many applicants who exceed the SPD's statutory financial guidelines are constitutionally eligible for appointment of counsel because it would be a substantial hardship for them to retain an attorney. The court is required to appoint counsel at county expense for these applicants. This bill would greatly decrease the number of applicants for court-appointed attorneys in criminal cases because the revised SPD financial criteria would result in SPD appointments in most of the cases in which courts currently appoint attorneys at county expense.

Counties would save the direct costs of these appointments, and county officials would not have to spend as much time administering court appointments, including auditing and paying invoices. The counties may also experience savings because in cases in which the SPD is able to appoint an attorney, the case may be resolved more quickly than if there is a delay to determine whether the court should appoint an attorney. In many cases, the prompt appointment of an attorney may result in fewer court hearings, less jail time, or both.

### Long-Range Fiscal Implications